months prior to the making of an adjudication order. In the case of *Ex parte Bonham, In re Tollemache*[1], the Master of the Rolls stated: — "I am prepared to lay this down, that when the only evidence of a debt is a judgment, and the judgment has been recovered after the act of bankruptcy, the judgment debt cannot be proved in the bankruptcy." This decision is, in my opinion, applicable to the law of bankruptcy in force in the Federation. In this case the only evidence before the Official Receiver of the debt in respect of which the proof was lodged was the judgment of this Court in Civil Suit No. 279 of 1952. This judgment was obtained after the petition to wind up the Malay National Banking Corporation Limited was presented, and if it is material the judgment in default was obtained by Mohamed Store subsequent to the date of the presentation of the petition with the knowledge of Mohamed Store that a petition had been presented. In these circumstances I am doubtful whether any part of the proof of Mohamed Store in the winding-up should have been allowed. However that may be, I am satisfied that the Official Receiver was acting within his legal rights in rejecting the proof to the extent of $30,000.

As I have already said, the case was argued at some length and many cases were cited to me on other points arising out of the rejection by the Official Receiver, but having regard to the conclusion to which I have come I do not think it necessary for me to refer to any of the other points raised on the hearing of this motion or to the cases cited in support of the arguments.

The motion is dismissed with costs.

Motion dismissed.

Solicitors: *Shearn Delamore & Co.*

Re CHEW KEAN KOR

[O. C. J. (Spenser Wilkinson J.) September 9, 1955]

[Penang — Bankruptcy No. 46 of 1954]

Bankruptcy —Duty of Official Assignee to realise debtor's assets for the benefit of creditors — Discretion.

It is the duty of the Official Assignee to realise the debtor's assets for the benefit of creditors, and the Court will not interfere with the discretion of the Official Assignee even at the instance of a creditor, unless his actions are so utterly unreasonable and absurd that no reasonable man would so act.

Case referred to:—

(1) *Ex p. Lloyd, Re Peters* 47 L.T. 64.

BANKRUPTCY MOTION.

Debtor in person.

Balwant Singh (Asst. Official Assignee) for the Official Assignee.

Spenser Wilkinson J.: — This was a motion by the debtor for an order restraining the Assistant Official Assignee from selling by public auction certain lands belonging to the debtor.

As I understand the law of bankruptcy it is the duty of the Official Assignee to realise the debtor's assets for the benefit of creditors, and the Court will not interfere with the discretion of the Official Assignee even at the instance of a creditor, unless his actions are so utterly unreasonable and absurd that no reasonable man would so act (see *Ex parte Lloyd, Re Peters*[1]).

The debtor was unable to adduce any good reason why his property should not be sold. He made a rather vague suggestion that he had asked some friend in Thailand to send him money to enable him to settle with his creditors, but it did not appear to me that there was any reasonable prospect that this friend either could or would supply this money within a reasonable time.

It appeared to me, therefore, that there was no good reason for this Court to interfere with the discretion of the Official Assignee and I, therefore, dismissed the application with costs.

Application dismissed.

CHEW KOW HIN v. WEE TRADING & CO.

[O. C. J. (Spenser Wilkinson J.) September 9, 1955]

[Penang — Civil Suit No. 15 of 1955]

Contract — c.i.f. Contract — Construction — Whether in c.i.f. contract the seller may tender goods instead of documents.

In this case the plaintiff claimed for the price of goods bargained and sold, to wit fountain pens. The defence was that the contract in question was a c.i.f. contract and that the plaintiff having failed to deliver to the defendants the proper shipping documents was not entitled to recover.

Held: under a c.i.f. contract a tender of the proper documents is essential and the seller is not at liberty to tender the goods instead of the documents.

In a mercantile contract where words are partly printed and partly typed the typed words are to be looked upon as the better indication of the intentions of the parties.

CIVIL SUIT.

Lee Thean-Chu for the plaintiff.

Sonni Pillai for the defendants.

Spenser Wilkinson J.: — The claim in this case was for the price of goods bargained and sold, the goods in question being 600 fountain pens with chromium plated nibs and 600 fountain pens with 14 carat gold nibs. The contract sued upon is contained in an indent, which is a printed form containing the